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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 JAMES SCOTT DALY,
15 Defendant.
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Case Nos.: 90CR0701-JLS
16CV1618-JLS

ORDER:
1) **GRANTING DEFENDANT'S MOTION**
UNDER 28 U.S.C. § 2255;
2) **VACATING SENTENCE; and**
3) **SETTING RESENTENCING HEARING**

18 Presently before the Court is Defendant's Motion to Vacate, Set Aside, or Correct
19 Sentence Under 28 U.S.C. § 2255 (ECF No. 132). Plaintiff has filed a response
20 conceding that after *Johnson v. United States*, 135 S.Ct. 2551 (2015), Defendant is no
21 longer subject to the enhanced penalties under which he was originally sentenced in
22 1996. Although Plaintiff contends that the question of whether Defendant receives a
23 lower sentence is academic at this point, it agrees that as a technical matter, Defendant
24 should be resentenced.

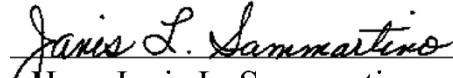
25 Accordingly, the Court HEREBY GRANTS Defendant's Motion Under Section 28
26 U.S.C. § 2255 and VACATES Defendant's sentence. IT IS FURTHER ORDERED that
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1 a Resentencing Hearing shall be held before this Court on **Friday, March 20, 2020** at
2 **9:00 a.m.** The Clerk's Office shall close case number 16CV1618-JLS and enter
3 judgment accordingly.

4 IT IS SO ORDERED.

5 Dated: January 28, 2020


6 Hon. Janis L. Sammartino
7 United States District Judge
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